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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------|
| 10/799,414 | 03/12/2004 | Donald G. Hoke | 3060.2.1 | 7134 |
| 7590 06/27/2005 Starkweather & Associates 9035 S 1300 E Suite 200 Sandy, UT 84094 | | | EXAMINER MACK, RICKY LEVERN | |
| | | | ART UNIT 2873 | PAPER NUMBER |

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/799,414

Applicant(s)

HOKE ET AL.

Examiner

Ricky L. Mack

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>0304</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 3/12/04 has been considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 8-17, 20 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Pagano et al. (20030063187).

Pagano discloses, as in claims 1-6, 8-17, 20 and 21, a personal viewing system (10) for enabling a person to view images (38) of the person (26) wearing an accessory (40, or necklace *not numbered*), at a store, the system being comprised of: a digital capturing device (12) for capturing one or more images of the person wearing an accessory, wherein the images may be photographs (30) or videos; a memory device (32, 34, 36) for storing the images in a memory; a display device (14) for displaying the images; and a command module (24) for reviewing the images (see para. 0018, 0072-0077, 0085; and figs. 1, 2, 4A-4D).

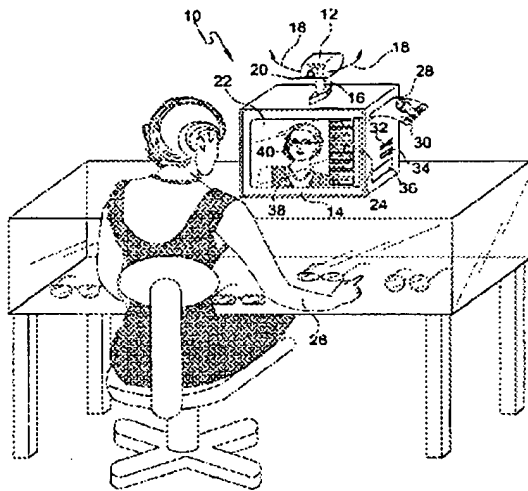


FIG. 1

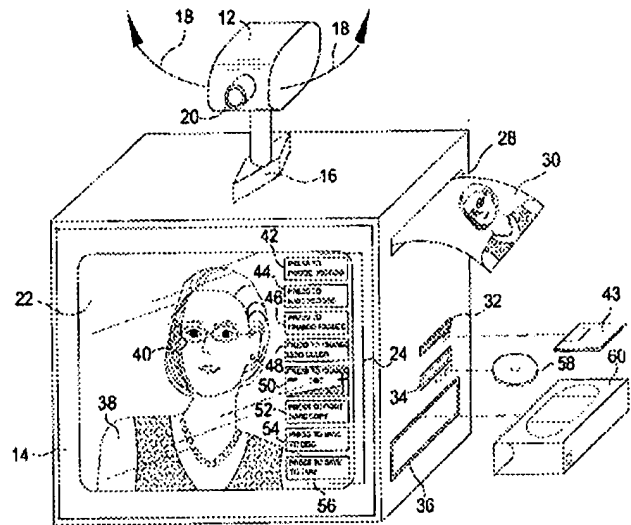


FIG. 2

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pagano et al. (20030063187).

Pagano discloses the claimed invention as described above except for the display device being wall mounted, as recited in claim 7. Using a wall mounted display device is well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the display device as a wall mounted display device for at least one of ease of placement and ease of viewing.

Pagano discloses the claimed invention as described above except for the command module being a wireless remote, as in claim 18, or a hard-wired remote, as in claim 19. The examiner takes official notice of the limitations of hard-wired remote and wireless remote being well known in the art and it would have

been obvious for one ordinary skill in the art at the invention was made to use either a wired or wireless remote for the well know purpose of provide non-adjacent operation control.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steir et al. (5060171) is considered particularly relevant for disclosing an image superimposing system for image enhancing similar to that disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky L. Mack whose telephone number is (571) 272-2333. The examiner can normally be reached on Monday-Friday (6:30 AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ricky L Mack
Primary Examiner
Art Unit 2873